

1 MIGLIACCIO & RATHOD LLP
2 Nicholas Migliaccio, (appearing pro hac vice)
3 Jason Rathod (appearing pro hac vice)
4 Esfand Nafisi (State Bar No. 320119)
412 H Street NE, Suite 302
Washington, D.C. 20002

5 GUTRIDE SAFIER LLP
6 Adam J. Gutride (State Bar No. 181446)
7 Seth A. Safier (State Bar No. 197427)
8 Marie A. McCrary (State Bar No. 262670)
100 Pine St., Suite 1250
9 San Francisco, California 94111
Telephone: (415) 271-6469
Facsimile: (415) 449-6469

10 Stephen M. Raab (appearing pro hac vice)
11 113 Cherry Street, #55150
12 Seattle, WA 98140-2205
Telephone: (415) 639-9090 x109

13 *Counsel for Plaintiff*

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 JOSEPH CARLOTTI, individually and on
17 behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 ASUS COMPUTER INTERNATIONAL;
21 ASUSTEK COMPUTER INC., and DOES 1-
50,

22 Defendants.

CASE NO. 18-CV-03369-DMR

**SECOND JOINT SUPPLEMENTAL
DECLARATION OF NICHOLAS
MIGLIACCIO AND ESFAND NAFISI IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 11, 2020
Time: 1:00 p.m.
Courtroom: 7, 19th Floor
Judge: Hon. Donna M. Ryu

25 We, Nicholas A. Migliaccio and Esfand Nafisi, declare as follows pursuant to 28 U.S.C. §
26 1746:

1 1. Nicholas Migliaccio is a founding partner of Migliaccio & Rathod LLP (“M&R”)
2 and one of the attorneys of record for Plaintiff Joseph Carlotti (“Plaintiff”). Mr. Migliaccio
3 submits this declaration in further support of Plaintiff’s motion for preliminary approval of a class
4 action settlement with Defendants ASUS Computer International (“ACI”) and ASUSTeK
5 Computer Inc. (collectively, “Defendants” or “ASUS”). Mr. Migliaccio makes this declaration in
6 support of Plaintiff’s Reply in Support of the Motion for Approval of Class Settlement. Unless
7 otherwise noted, Mr. Migliaccio has personal knowledge of the facts set forth in this declaration
8 and could and would testify competently to them if called upon to do so.

10 2. Esfand Nafisi is Of Counsel at M&R and an attorney of record for Plaintiff. Mr.
11 Nafisi makes this declaration in support of Plaintiff’s Reply in Support of the Motion for Approval
12 of Class Settlement. Unless otherwise noted, Mr. Nafisi has personal knowledge of the facts set
13 forth in this declaration and could and would testify competently to them if called upon to do so.

15 3. M&R diligently assisted in improving the notice program, particularly with respect
16 to ensuring that potentially meritorious claims with deficiencies were remedied. This work aided
17 in ensuring that the maximum possible number of substantiated claims were filed. M&R partner
18 Jason Rathod reviewed and revised drafts of the supplemental notice materials to be distributed
19 and worked with the Claim Administrator to ensure that deadlines were met. Further, during the
20 notice period, attorneys from my firm responded to inquiries from class members about the
21 settlement and filings claims. Mr. Rathod also monitored weekly reports about notice and claims
22 from the Claim Administrator.

24 4. Our supplemental declaration filed on September 12, 2019, included M&R’s
25 lodestar as of September 10, 2019. Since that date, M&R has spent an additional 103.2 hours
26 working on this case, including (1) assisting in finalizing the Settlement papers (2) reviewing and
27 revising the motion to approve the Settlement and supporting declarations and appearing at the

1 preliminary approval hearing; (3) assisting in negotiating the amended Settlement papers; (4)
 2 reviewing and revising the supplementary papers in support of the Settlement, including the
 3 supplementary Nafisi Declaration and the supplementary brief in support of preliminary approval;
 4 (5) assisting in implementing the Settlement, including working with the Claim Administrator,
 5 developing a supplemental process to cure deficiencies, and responding to Class Members'
 6 inquiries; (6) reviewing and requesting changes to the Claim Administrator's declaration in
 7 support of final approval; and (7) drafting the reply in support of final approval, this declaration,
 8 and the amended final approval order. Given the ongoing nature of the notice program, there will
 9 likely be many additional hours not yet recorded for this case, both prior to and after final
 10 approval. The hourly rates shown in the table below for the attorneys and paralegals at M&R are
 11 the same as the regular rates charged by M&R for their services in other litigation as of the final
 12 approval hearing date.
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Timekeeper	Hours	Rate	Total	Locality- Adjusted Total
Nicholas Migliaccio	99.4	\$747	\$74,251.90	\$74,251.9
Jason Rathod	96.0	\$747	\$71,712.00	\$71,712
Esfand Nafisi	285.1	\$747 ¹	\$212,969.7	\$231,072.12
Erick Quezada	33.6	\$372	\$12,499.20	\$12,499.20
Bruno Ortega-Toledo	24.5	\$202	\$4,949.00	\$4,949.00
TOTAL	538.6		\$376,381.80	\$394,484.22

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¹Mr. Nafisi, who is the sole M&R attorney residing in the San Francisco Bay Area, respectfully requests an 8.6% locality-based adjustment of the firm's rate due to the higher living costs of the San Francisco Bay Area compared to Washington D.C., where M&R is headquartered. (ECF No. 62 ¶¶ 26 - 27).

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2 5. Our supplemental declaration filed on September 12, 2019, provided evidence in
3 support of the reasonableness of M&R's billing rates. In addition, M&R's rates were recently
4 approved in a collective action settlement in the United States District Court for the Eastern
5 District of Michigan. *See Whitfield v. Trinity Rest. Grp., LLC*, No. 18-10973, 2019 U.S. Dist.
6 LEXIS 182055 (E.D. Mich. Oct. 3, 2019).

7
8 6. Further, as we stated in our September 12, 2019, supplemental declaration filed in
9 support of Plaintiff's Motion for Approval, expenses are accounted for and billed separately and
10 are not duplicated in my professional billing rate. As further detailed in the July 8, 2019
11 Declaration of Esfand Nafisi, ECF No. 62, M&R incurred a total of \$5,882.59 in unreimbursed
12 actual third-party expenses in connection with the prosecution of this case. The actual expenses
13 incurred are based on payment records and accurately reflect all actual expenses incurred. M&R
14 has not received reimbursement for expenses incurred in connection with this litigation.

15
16 Pursuant to 28 U.S.C. Section 1746, we declare under penalty of perjury that the foregoing
17 is true and correct.

18 Executed on this 29th day of May 2020, in Washington, D.C. and San Anselmo, CA,
19 respectively.

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21
22 /s/ Nicholas A. Migliaccio
Nicholas A. Migliaccio

/s/ Esfand Y. Nafisi
Esfand Y. Nafisi